

Remarks

Claims 2, 5 – 11, and 13 – 15 are pending in the application. Claims 2, 5 – 11, and 13 – 15 stand finally rejected.

The invention is directed to a method for labeling a sample container such as a container holding a sample to be analyzed in head space gas chromatography. The method comprises elevating the temperature of the container to an elevated temperature, cooling the container and applying a marking agent to a surface of the container while cooling the container above a degassing temperature characteristic of the marking agent. Volatile constituents of the marking agent are evaporated when above the degassing temperature.

Claim Rejections – 35 USC §102

Claim 10 and its dependent claims 5 – 6, 9, 11 and 13 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Ono (JP 05-000,821 A).

Claim 10 has been cancelled. Claims 2, 5 – 9, 11 and 13 have been amended to depend from independent Claim 14.

Claim 14 requires elevating the temperature of a container to an elevated temperature, cooling the container and applying a marking agent to a surface of the container while cooling the container above a degassing temperature characteristic of the marking agent.

In stark contrast, Ono discloses a method whereby when blowing glass into a moulding machine and gradually cooling the glass to form a bottle, plural strip heaters (2) are arranged and positioned near the bottle and their temperatures regulated by a temperature controller such that by changing the cooling velocity (e.g., the cooling

rate) of selected stripes or bands in the glass by use of the heaters juxtaposed to the stripes, a bottle of amorphous glass is manufactured wherein the selected stripes or bands have different refractive indices. Thus, when light is shone on the bottle through a polarizing filter, the stripes of different refractive indices are read as a bar code to identify the bottle. (*Spec., Para. 8; Figs 1 – 6*).

Thus, Ono relies upon manipulating a bulk material property of the glass bottle (i.e. the refractive index) to produce an identifying bar code. This is accomplished by changing the rate at which the glass is cooled during the manufacturing process. The Applicant would like to respectfully point out that it is well known that the refractive index, n , of a material of interest is the ratio of the speed of light in a vacuum, c , to the speed of light, v , in the material. Thus, the refractive index is, by definition, a material property of matter in bulk that has no meaning at the surface of the material of interest. In contrast, Claim 14 requires applying a marking agent to the surface of a bottle to act as an identifying label – something that Ono simply does not teach or suggest.

Thus, it is respectfully submitted that Claim 14, as amended, is not anticipated by Ono and stands in condition for allowance. Notification of that fact is respectfully requested. Therefore, it is also submitted that Claims 2, 5 – 9, 11 and 13, which depend variously from Claim 14, also stand in condition for allowance for at least the same reasons as set forth with respect to Claim 14. Notification of that fact is respectfully requested.

Claim Rejections – 35 USC §103

Claims 2, 7 – 8 and 14 – 15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Ono.

As noted above, Claim 14 requires applying a marking agent to a surface of a container while cooling the container above a degassing temperature characteristic of the marking agent. In contrast, Ono discloses a method that relies upon manipulating a bulk material property of a glass bottle (i.e. the refractive index of the glass). (*Abstract, Constitution*). The refractive index in Ono is not a marking agent, nor is anything applied to the surface of the bottle in Ono. In addition it is noted that, in manipulating the refractive index of the glass bottle, Ono relies upon controlling the *rate* at which the glass temperature **changes** during the manufacture of the bottle. This is not the case in Claim 14. Claim 14 requires only that a marking agent be applied to a surface of a container while cooling the container above a degassing temperature characteristic of the marking agent.

It should also be pointed out that degassing refers to the evaporation of volatile constituents contained within the marking agent at a degassing temperature. It does not refer to 'gas evacuated from the container' as stated by the Examiner in the rejection of Claim 14.

To reiterate, Ono discloses manipulating the refractive index of the glass, controlling the rate of change in temperature of the glass during manufacture. Claim 14 requires elevating a temperature of a container and applying a marking agent to a surface of the container while cooling the container above a degassing temperature characteristic of the marking agent.

Thus, Ono does not teach nor even suggest the method of Claim 14. Nor is there any motivation even remotely disclosed or suggested in Ono for one of ordinary skill to modify manipulating the refractive index of the glass, controlling the rate of change in temperature to yield the method for labeling a sample container found in Claim 14. In fact to modify Ono to produce the invention of Claim 14 would require

completely redesigning Ono by removing heating elements (3), variable resistors (5) and power supply (4) and replacing them with some means for applying a marking agent to the bottle (1). Such a requirement can hardly be considered obvious.

As such, it is submitted that Claim 14, as amended, is clearly patentable over Ono and stands in condition for allowance. Notification of that fact is respectfully requested. Claims 2, 7 – 8 and 15, which depend variously from Claim 14, are therefore also clearly patentable over Ono and stand in condition for allowance for at least the same reasons as set forth with respect to Claim 14. Notification of that fact is respectfully requested.

Based upon the foregoing Amendments and Remarks, the Applicants submit that new Claims 16 – 26 are also novel and non-obvious and therefore stand in condition for allowance. Early notification of that fact is respectfully requested.

Respectfully submitted,



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